

FERC rules on PUD's request to revisit Lake Chelan license issues

General Counsel Carol Wardell and External Affairs Director Gregg Carrington reported on the latest federal action on the new license for the Lake Chelan Hydro Project. The District has been analyzing the new order since it was released last Thursday by the Federal Energy Regulatory Commission (FERC).

Last November, the District had received a new 50-year federal operating license for the Lake Chelan Project, but the District asked for rehearing by FERC to clarify three issues: 1) liability protection before allowing whitewater boating (kayaking), 2) cost caps on certain items required in the license; 3) expansion of the project boundary for certain wildlife habitat and recreation improvements.

FERC ruled that the PUD must go ahead with a three-year test program on kayaking in the Chelan River Gorge without waiting to resolve all liability concerns. The earliest that kayakers might be able to use the river will be July 2008.

The PUD had also asked FERC to retain cost caps on measures such as dock replacements and erosion control that it had agreed to with state and federal agencies. FERC declined to impose the caps in about half the instances and accepted the other half. FERC did say the PUD could come back for further consideration if costs begin escalating beyond what is expected.

FERC also ruled that the District may be required to bring certain lands into the project boundary, depending on what is contained in a wildlife habitat plan to be submitted later. But FERC said lands requiring only one-time actions by the PUD and required recreational enhancements for the National Park Service and the Forest Service would not require those lands to be added to the project boundary.

Lake Chelan Project License

Federal Energy Regulatory Commission (FERC)
Order on Rehearing

Presented by: Carol Wardell, Gregg Carrington, Michelle Smith
Chelan County Public Utility District - April 23, 2007

Introduction

- Nov 6, 2006 FERC issued License Order
- Dec 6, 2006 District requested rehearing and clarification of its license
- April 19, 2007 FERC issued Order on Rehearing

District's Request in Rehearing

- Liability protection before allowing kayaking
- Enforce the agreed-upon cost caps
- Do not expand the project boundary for certain wildlife and recreation improvements

Whitewater Boating

- FERC Staff (License Order Nov 6)
 - Provide whitewater releases for the three-year study.
 - Did not caveat that liability insurance must first be obtained or that the statute must first be amended and clarified.

Whitewater Boating

- District request for license modification (Dec 6)
 - Agreed with providing whitewater releases for the three-year study.
 - Argued that requiring the releases without requiring liability insurance or changing the statute was unreasonable and contrary to the public interest.

Whitewater Boating

- FERC Order on Rehearing (April 19)
 - The three-year monitoring study is warranted and should not be delayed indefinitely while the District resolves its liability concerns.

Whitewater Boating

■ Next Steps

- Development of plan and schedule and submittal to FERC for approval by Nov 2007.
- Whitewater boating in Chelan River will occur no sooner than July 2008, assuming timely approval of plan by FERC and if no schedule conflict with Chelan River projects.

Cost Caps

- FERC Staff (License Order Nov 6)
 - Stated it's FERC's responsibility to ensure that measures deemed necessary in its license order are performed to completion - regardless of cost.
 - Said would have rejected some measures - but had to include in license because mandatory conditions.

Cost Caps

- District request for clarification (Dec 6)
 - Asked that FERC clarify whether cost caps applied for various mitigation and enhancement measures as agreed to in Settlement Agreement.
 - Asked that cost caps be retained in all instances.

Cost Caps

■ FERC Order on Rehearing (April 19)

- FERC reaffirmed its decision to not "constrain the fulfillment of its statutory responsibilities by agreeing to such spending caps." *However*, agreed to amend license to provide for notice and opportunity for hearing for any change in funding levels for specific measures.
- Clarified that cost caps did apply to measures that FERC believed were not required under the comprehensive development standard section 10(a) of the Federal Power Act and were included in the license only because they were mandatory conditions.

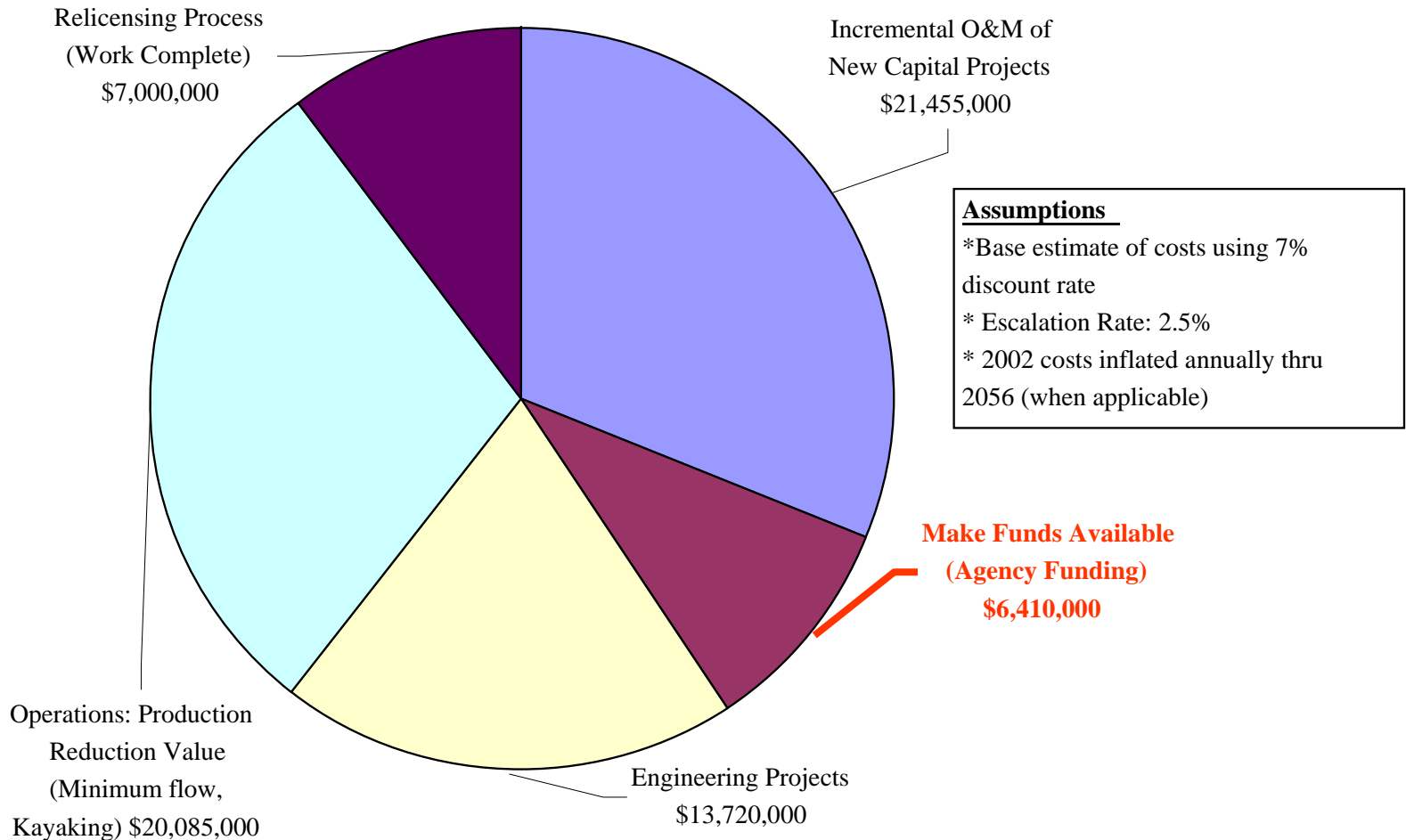
Cost Caps

- Cost caps ordered by license:
 - \$3.4 million (2007 NPV) – Agency funding for large woody debris, wildlife conservation easements and restoration, and recreation enhancements.
 - \$240,000 (2007 NPV) – Contingency fund related to unforeseen resources that arise during license term (year 25 & 30).

- Cost caps for agency funding not ordered in license, but agreed-to in Settlement Agreement:
 - \$3 million (2007 NPV)– Includes Park Service erosion control plan, food web model, fish monitoring and evaluation, wildlife improvements, water right acquisitions, and Stehekin dust abatement plan.

FERC Order on Rehearing Lake Chelan Project License

Lake Chelan Incremental Implementation Costs in 2007 NPV



Project Boundary

- FERC Staff (License Order Nov 6)
 - FERC said it would include in the project boundary lands where the District had continuing responsibilities to carry out license measures.

Project Boundary

- District request for clarification (Dec 6)
 - (Wildlife) District said lands requiring ongoing maintenance to ensure the success of wildlife habitat measures should not be brought into the project boundary.
 - (Recreation) Argued that lands necessary to carry out mandated recreation enhancement measures should not be brought into the project boundary.

Project Boundary

■ FERC Order on Rehearing (April 19)

- (Wildlife) FERC reaffirmed that it may require such lands to be brought into the project boundary, but that the determination will be made when the Wildlife Habitat Plan is approved. Also, clarified that one-time actions will not require land be included in the project boundary.
- (Recreation) Reaffirmed that mandated recreational enhancement measures for the Park Service and Forest Service lands would not be brought into project boundary and no need to include the facilities in the recreation plan.

Project Boundary

■ Next Steps

- Development of Wildlife Habitat Plan and submittal to FERC by Nov 2007 for approval.
- Development of Recreation Resources Plan (to not include US Forest Service and National Park Service measures) and submittal to FERC by Nov 2007 for approval.
- Funding/payment contracts with federal and state agencies.

FERC Order on Rehearing
Lake Chelan Project License

Questions